New French Immigration Rules For Foreign Workers

The French Parliament adopted new immigration rules for the hiring of foreign workers in France (Law of July 24, 2006, hereinafter referred as the “Law”). Two decrees dated November 14 and November 15, 2006 provide additional explanations of the policies. With this Law, the French immigration system, traditionally perceived as unsophisticated, aims to provide more flexibility for companies wanting to hire foreign workers by creating new categories of work permits and greater transparency. Nationals of the new EU Member States (except Cyprus and Malta) are subject to these rules until May 2009. Nationals of the other EU Member States are exempt as they have direct access to the French labor market. The main changes are summarised below:

(1) Although normally the strength of the employment market will determine whether work permits are issued for foreign workers, either as an “employee” (duration of one year or more) or a “temporary worker” (duration of less than one year), the Law provides for the waiver of this condition for certain sectors or geographic areas with recruitment difficulties (namely, the building and retail industries, restaurants and hotels, etc.).

(2) The Law adds new work permit categories to the existing ones (such as “temporary worker” and “employee”), namely:

- **“Seasonal worker”:** The Law creates a specific work permit for seasonal employees holding a seasonal fixed term contract (in the agricultural sector, for example). With this permit, foreign workers can reside in France for up to 6 months per year for a maximum duration of 3 years, such period being renewable. The foreign workers must maintain their usual residence outside France.

- **“Seconded worker”:** This applies to foreign workers who are temporarily seconded by their employer to France within the same company or group of companies. The minimum salary requirement is one and a half times the minimum wage, i.e. a minimum of 23,000 euros per year. This permit can be issued for a period of up to 3 years and is renewable.

- **“Special skills and talent”:** This category can be used for foreign workers “likely because of their skills and talents to take a significant and long term part in the economic development or the prestige of the country, in terms of intellectual expertise, science, culture, humanitarian activities or sport” whether in France or in their home country. This permit is monitored directly by the Ministry of the Interior and can be issued for a period of up to 3 years and is renewable.
“Scientist”: As required by the European Union Directive 2005/71/CE of October 12, 2005, foreign workers holding a work permit in another European Union country who carry out scientific or academic activities can reside in France for the purposes of their research for up to 3 months provided they have sufficient resources.

“Student”: The Law authorizes students to work without the need for a work permit under certain conditions. The work must be accessory and is limited to 60% of the annual working time (approximately 1,000 hours a year). Moreover, the foreign student may obtain a work permit if he/she wants to complete his/her university training with some work experience. The student must hold a Masters’ degree.

“Trainee”: The “trainee” card can be obtained by foreign students wishing to train in France. A training agreement must be signed between the foreign university and the French employer and certified by the French administration. The student must have sufficient financial resources.

(3) The Law reinforces employers’ obligations regarding the prevention of illegal work. Employers are under a duty to check the existence and validity of the residence permit of foreign workers and verify whether they have a work permit.

Please contact any of the members of our Paris office Employment Law Group for more information or if you have any questions. You can find additional information at www.kramerlevin.com/employment/.

Author/Contact:
Ming Henderson-Vu Thi, Partner
(T) 011 (33-1) 44.09.46.00
(F) 011 (33-1) 44.09.46.01
mhenderson@kramerlevin.com
Paris

This memorandum provides general information on legal issues and developments of interest to our clients and friends. It is not intended to provide legal advice. Readers should seek specific legal advice before taking any action with respect to the matters we discuss here. Should you have any questions or wish to discuss any of the issues raised in this memorandum, please call your Kramer Levin contact.